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EXAMINER

GREENE, DANIEL L

ART UNIT

PAPER NUMBER

2161

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/371,462

Applicant(s)

AHMAD ET AL.

Examiner

Daniel L. Greene

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 June 1999.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 19,24,26 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Eilat et al. US 6,227,974 B1.

As per Claim 19.

Eilat et al. ('974) discloses:

encoding content for conversion into vision-enabled content, Col. 4, lines 1-15

providing a program to decode the vision-enabled content, Col. 5, lines 40-51.

sending the vision-enabled content to a user over the Internet, wherein the program decodes the vision-enabled content and receives an image of the user. Col. 5, lines 15-25.

As per Claim 24.

Eilat et al. ('974) discloses all the limitations of Claim 19.

Eilat et al. ('974) further discloses collecting statistics. Col.16, lines 18-24

As per Claim 26.

Eilat et al. ('974) discloses:

sending content to a user over a network. Col. 5, lines 15-25.

receiving an image of the user. Col. 5, lines 15-25.

recognizing a person image of the user in the image. Col. 5, lines 15-25.

controlling the content based on the person image; Col. 17, lines 3-5.

outputting the content. Col. 5, lines 15-25.

As per Claim 27.

Eilat et al. ('974) discloses all the limitations of Claim 26:

Eilat et al. ('974) further discloses:

wherein the outputted content includes an interaction between the person image and the content. Col. 17, lines 3-5.

***Claim Rejections - 35 USC § 103***

**3.     *The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:***

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**4.     Claims 1-11, 13-18, 20-23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eilat et al. US 6,227,974 B1 in view of Ginter et al. US 6,253,193 B1.**

As per Claim 1.

Eilat et al. ('974) discloses:

encoding content for conversion into vision-enabled content, Col. 4, lines 1-15  
providing a program to decode the vision-enabled content, Col. 5, lines 40-51.  
sending the vision-enabled content to a user over the Internet, wherein the program decodes the vision-enabled content and receives an image of the user and combines the image of the user with the vision-enabled content. Col. 5, lines 15-25.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 46, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. encoding the content, Fig. 46 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; encoding the content for conversion into vision... of Ginter (193) for the benefit of cost recovery.

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As per Claim 2.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 1.

Eilat et al. ('974) further discloses:

encoding of the content is performed via "tools", Fig.4

Note: The definition of, "tools", is derived from the applicants description on page 7, second paragraph, "The tools, i.e. programs and hardware ..."

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 77, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. "payment being received in exchange for use of the tools", Fig. 77 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; payment being received in exchange for use of the tools of Ginter (193) for the benefit of cost recovery.

As per Claim 4.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 1.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 82, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e., "payment based on an amount of users receiving the vision-enabled content." Fig. 82 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; payment based on an amount of users receiving the vision-enabled content." of Ginter (193) for the benefit of cost recovery.

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As per Claim 5.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 1.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 81, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. receiving payment based on a quantity of vision-enabled content sent, Fig. 81, demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; receiving payment based on a quantity of vision-enabled content sent, of Ginter (193) for the benefit of cost recovery.

As per Claim 6.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 1.

Eilat et al. ('974) further teaches the vision-enabled content includes at least one of advertising, entertainment content, and education content Col. 10, lines 20-23.

As per Claim 7.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 1.

Eilat et al. ('974) does not disclose recognizing an identity of the user and selecting vision-enabled content based on the identity of the user, the selected vision-enabled content being sent to the user.

Ginter (193) teaches, see Fig. 81, recognizing an identity of the user and selecting vision-enabled content based on the identity of the user, the selected vision-enabled content being sent to the user to enhance the benefit of the service and provide the user with previous selected programs.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the gaming program the ability of recognizing an identity of the user and selecting vision-enabled content based on the identity of the user, the selected vision-enabled content being sent to the user to enhance the benefit of the service and provide the user with previous selected programs.

As per Claim 8.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 1.

Eilat et al. ('974) does not disclose associating the user with a group and selecting vision-enabled content based on the association of the user with the group, the selected vision-enabled content being sent to the user.

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Ginter (193) teaches, see Fig. 81, associating the user with a group and selecting vision-enabled content based on the association of the user with the group, the selected vision-enabled content being sent to the user to enhance the benefit of the service and provide the user with previous selected programs.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the gaming program the ability of associating the user with a group and selecting vision-enabled content based on the association of the user with the group, the selected vision-enabled content being sent to the user to enhance the benefit of the service and provide the user with previous selected programs.

As per Claim 9.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 1.

Eilat et al. ('974) does not disclose collecting statistical data.

Ginter (193) teaches, see Fig. 46, collecting statistical data, for the benefit of determining the success rate and usage of a program for future business decisions.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the gaming program the ability of collecting statistical data, for the benefit of determining the success rate and usage of a program for future business decisions

As per Claim 10.

Eilat et al. ('974) discloses:

encoding content for conversion into vision-enabled content, Col. 4, lines 1-15  
providing a program to decode the vision-enabled content, Col. 5, lines 40-51.  
sending the vision-enabled content to a user over the Internet, wherein the program decodes the vision-enabled content and receives an image of the user and utilizes the image of the user to control the vision-enabled content. Col. 5, lines 15-25.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 46, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. encoding the content, Fig. 46 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; encoding the content for conversion into vision... of Ginter (193) for the benefit of cost recovery.

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As per Claim 11.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 10.

Eilat et al. ('974) further discloses:

encoding of the content is performed via "tools", Fig.4

Note: The definition of, "tools", is derived from the applicants description on page 7, second paragraph, "The tools, i.e. programs and hardware ..."

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 77, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. "payment being received in exchange for use of the tools", Fig. 77 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; payment being received in exchange for use of the tools of Ginter (193) for the benefit of cost recovery.

As per Claim 13.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 10.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 82, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e., "payment based on an amount of users receiving the vision-enabled content." Fig. 82 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; payment based on an amount of users receiving the vision-enabled content." of Ginter (193) for the benefit of cost recovery.

As per Claim 14.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 10.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not



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specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 82, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e., "payment based on an amount of users receiving the vision-enabled content." Fig. 82 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; payment based on an amount of users receiving the vision-enabled content. " of Ginter (193) for the benefit of cost recovery.

As per Claim 15.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 10.

Eilat et al. ('974) further discloses the vision-enabled content includes at least one of advertising, entertainment content, and education content Col. 10, lines 20-23.

As per Claim 16.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim Eilat et al. ('974) does not disclose recognizing an identity of the user and selecting vision-enabled content based on the identity of the user, the selected vision-enabled content being sent to the user.

Ginter (193) teaches, see Fig. 81, recognizing an identity of the user and selecting vision-enabled content based on the identity of the user, the selected vision-enabled content being sent to the user to enhance the benefit of the service and provide the user with previous selected programs.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the gaming program the ability of recognizing an identity of the user and selecting vision-enabled content based on the identity of the user, the selected vision-enabled content being sent to the user to enhance the benefit of the service and provide the user with previous selected programs.

As per Claim 17.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 10.

Eilat et al. ('974) does not disclose associating the user with a group and selecting vision-enabled content based on the association of the user with the group, the selected vision-enabled content being sent to the user.

Ginter (193) teaches, see Fig. 81, associating the user with a group and selecting vision-enabled content based on the association of the user with the group, the selected vision-enabled content being sent to the user to enhance the benefit of the service and provide the user with previous selected programs.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the gaming program the ability of associating the user with a group and selecting vision-enabled content based on the association of the user with the group, the selected vision-enabled content being sent to the user to enhance the benefit of the service and provide the user with previous selected programs.

As per Claim 18.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 10.

Eilat et al. ('974) does not disclose collecting statistical data.

Ginter (193) teaches, see Fig. 46, collecting statistical data, for the benefit of determining the success rate and usage of a program for future business decisions.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the gaming program the ability of collecting statistical data, for the benefit of determining the success rate and usage of a program for future business decisions

As per Claim 20.

Eilat et al. ('974) discloses all the limitations of Claim 19.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193) teaches, see Fig. 81, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. receiving payment based on a number of users who the vision-enabled content has been sent to, Fig. 81, demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; receiving payment based on a number of users who the vision-enabled content has been sent to, of Ginter (193) for the benefit of cost recovery.

As per Claim 21.

Eilat et al. ('974) discloses all the limitations of Claim 19.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services.

Ginter (193), teaches, see Fig. 77, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services

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for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. payment being received in exchange for the program, Fig. 77 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; payment being received in exchange for the program, of Ginter (193) for the benefit of cost recovery.

As per Claim 22.

Eilat et al. ('974) discloses all the limitations of Claim 19.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services

Ginter (193), teaches, see Fig. 77, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. storing the vision-enabled content and receiving payment for storing the vision-enabled content, Fig. 77 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; storing the vision-enabled content and receiving payment for storing the vision-enabled content for the benefit of cost recovery.

As per Claim 23.

Eilat et al. ('974) discloses all the limitations of Claim 19.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services

Ginter (193), teaches, see Fig. 81, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. receiving payment based on a quantity of vision-enabled content sent, Fig. 81 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; storing the vision-enabled content and receiving payment for storing the vision-enabled content for the benefit of cost recovery.

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As per Claim 25.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 24.

Eilat et al. ('974) further discloses a "pay program", Col.4, line 28, in reference to the version of the interactive game that includes the avatar of the player, but, does not specifically address receiving a payment for performing electronic actions and providing electronic services

Ginter (193), teaches, see Fig. 46, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. receiving payment in exchange for access to the statistics.

Fig. 46 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into the "pay program" of Eilat et al. ('974), the receiving of payments for performing electronic actions and providing electronic services such as; receiving payment in exchange for access to the statistics for the benefit of cost recovery.

5. Claims 3&12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eilat et al., US 6,227,974 B1 in view of Ginter et al. US 6,253,193 B1 as applied to claims 1 and 10 above, and further in view of Apfel et al., US 5,974,454.

As per Claim 3.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 1.

Neither Eilat et al. ('974) nor Ginter (193) discloses "providing an upgrade for the program ..." However, providing an upgrade for a computer program is not a unique action and would have been obvious to the programmers and company marketing the software.

Apfel ('454) teaches, monitoring the date of a program and if it is on or after a date stored in a register, determine if an upgrade package for the software is available. If an upgrade package is available, notify the user and proceed as per the user's direction. Fig. 4A/B. Providing an upgrade for a computer program is not a unique action and would have been obvious to the programmers and companies marketing their software to insure their program maintains the state of the art attributes to enhance their profitability.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to anticipate and plan to upgrade their program to insure their program maintains the state of the art attributes to enhance their profitability.

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Ginter (193), teaches, see Fig. 46, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. payment being received in exchange for the upgrade, Fig. 46 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into a "pay program", the receiving of payments for performing electronic actions and providing electronic services such as; payment being received in exchange for the upgrade for the benefit of cost recovery.

As per Claim 12.

Eilat et al. ('974) and Ginter (193) disclose all the limitations of Claim 10.

Neither Eilat et al. ('974) nor Ginter (193) discloses "providing an upgrade for the program ..." However, providing an upgrade for a computer program is not a unique action and would have been obvious to the programmers and company marketing the software.

Apfel ('454) teaches, monitoring the date of a program and if it is on or after a date stored in a register, determine if an upgrade package for the software is available. If an upgrade package is available, notify the user and proceed as per the user's direction. Fig. 4A/B. Providing an upgrade for a computer program is not a unique action and would have been obvious to the programmers and companies marketing their software to insure their program maintains the state of the art attributes to enhance their profitability.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to anticipate and plan to upgrade their program to insure their program maintains the state of the art attributes to enhance their profitability.

Ginter (193), teaches, see Fig. 46, systems and methods for the secure transaction management and electronic rights protection that specifically deals with receiving payments for performing electronic actions and providing electronic services for the benefit of cost recovery. In reference to receiving payment for performing an event, i.e. payment being received in exchange for the upgrade, Fig. 46 demonstrates such action.

Therefore, it would have been obvious to one of ordinary skill in the art at the time to incorporate into a "pay program", the receiving of payments for performing electronic actions and providing electronic services such as; payment being received in exchange for the upgrade for the benefit of cost recovery.

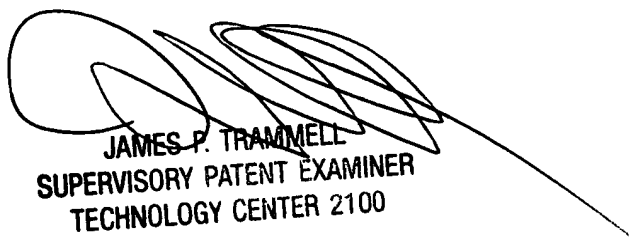
### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene whose telephone number is 703.306.5539. The examiner can normally be reached on M-F (8:00-5:30) first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P Trammell can be reached on 703.305.9768. The fax phone numbers for the organization where this application or proceeding is assigned are 703.305-0040 for regular communications and 703.305.0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.305.3900.

DLG  
December 5, 2001



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